

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: CUSTOMER SPECIFIC PRICING :  
CONTRACTS FOR BUSINESS CUSTOMERS : DOCKET NO. 3575

REPORT AND ORDER

On December 12, 2003, Verizon-Rhode Island ("VZ-RI") filed a revision to Tariff No. 15. This revision modified the Customer Specific Pricing Contracts tariff to enable VZ-RI to negotiate rates for all business services to all business customers on a case-by-case basis. Currently, VZ-RI can only provide Customer Specific Pricing Contracts to large business customers in Rhode Island whose total intrastate billed revenue exceeds \$100,000 annually. On January 9, 2004, VZ-RI responded to Commission data requests. On said date, the Division of Public Utilities and Carriers ("Division") filed a recommendation for approval as filed. At an open meeting on January 12, 2004, the Commission approved the proposed tariff but required that the proposed tariff be revised to indicate that all prices set under Customer Specific Pricing Contracts be above the long-run incremental cost ("LRIC") price floor established in Docket No. 3445.

VZ-RI's proposal to have Customer Specific Pricing Contracts for all business customers is a further evolution of the price flexibility granted to VZ-RI for business customers. The purpose of the Telecommunications Act of 1996 is to lower local telephone rates for ratepayers through competition. In Docket No. 3445, the Commission has granted VZ-RI pricing flexibility for business services by eliminating any price ceilings and establishing a LRIC price floor. VZ-RI's business retail rates are uniform statewide with the exception of 75 to 80 very large business customers with billed

revenues in excess of \$100,000.<sup>1</sup> These very large business customers are able to obtain Customer Specific Pricing Contracts, and obtain rates that differ from the tariff after negotiation with VZ-RI. The question before the Commission is whether to extend the availability of Customer Specific Pricing to all business customers.

First, the Commission must determine if this will harm the competitive process. At the outset, the commission notes that “it will not set policies which give a competitive advantage to one carrier over another.”<sup>2</sup> It is apparent that competitive local exchange carriers (“CLECs”) are expressly allowed by tariff to enter into individual case by case pricing with customers, which parallels Customer Specific Pricing.<sup>3</sup> Therefore, VZ-RI should have the same flexibility. The only limitation on VZ-RI would be that the rates negotiated by Customer Specific Pricing Contracts must be above LRIC. This is consistent with the present tariff established in Docket No. 1903, where VZ-RI agreed to provide rates that “exceed the appropriate incremental cost floor” and in Docket No. 3445 where, in the Settlement, VZ-RI agreed to a LRIC price floor.<sup>4</sup> This LRIC price floor does not place VZ-RI at a competitive disadvantage because all CLECs which purchase unbundled network elements (“UNEs”) must pay at TELRIC rates and these TELRIC rates are inherently higher than a LRIC price floor. The only CLEC which could theoretically price below VZ-RI’s LRIC price floor would be Cox because generally it does not purchase UNEs from VZ-RI. However, as VZ-RI has provided no evidence that Cox is currently pricing below VZ-RI’s LRIC price floor, the LRIC price floor need not be revisited at this time. Accordingly, the LRIC price floor is still appropriate and VZ-RI

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<sup>1</sup> VZ-RI’s Data Response of 1/9/04.

<sup>2</sup> Order No. 14717, p. 45.

<sup>3</sup> VZ-RI Data Response of 1/9/04.

<sup>4</sup> Order No. 12910 and Order No. 17417, Appendix A.

must revise its proposed tariff to indicate that it will set prices above LRIC. To ensure that VZ-RI's rates are above LRIC, the Commission can, if necessary, require VZ-RI to provide it with the tariffed rates and a LRIC cost study for any rates in a Customer Specific Pricing Contract.

Protecting the competitive process is important so as to ensure that ratepayers will receive the benefit of lower rates produced from vibrant competition. Thus, the second area the Commission must review is the effect Customer Specific Pricing will have on all ratepayers. It is apparent that some business customers will benefit from Customer Specific Pricing because they will negotiate and obtain rates below current tariffed rates. However, there is a danger that VZ-RI could negotiate lower rates for some business customers while raising tariffed rates for other business customers. In Docket No. 1903, the Commission indicated that VZ-RI must "not be allowed to use revenues from other service to subsidize its large Centrex sales".<sup>5</sup> Furthermore, in Docket No. 3445, the Commission noted "that excessive geographic deaveraging of prices could harm customers in less competitive areas of the state" because VZ-RI would lower rates to customers in very competitive areas such as urban areas while raising rates to customers in less competitive areas such as rural areas.<sup>6</sup> Because VZ-RI business rates are currently uniform statewide, "VZ-RI must rebut the presumption" that the Customer Specific Pricing Contracts "do not constitute improper discrimination among similarly situated ratepayers".<sup>7</sup>

It is apparent that under the proposed tariff revision, Customer Specific Pricing Contracts could be available to all business customers regardless of locations or size.

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<sup>5</sup> Order No. 12910.

<sup>6</sup> Order No. 17417, p. 56.

<sup>7</sup> Id.

However, it is safe to assume that VZ-RI will initially focus its efforts regarding Customer Specific Pricing Contracts to large and medium size business customers in the most competitive areas. The danger is that VZ-RI could enter into Customer Specific Pricing Contracts with customers in competitive areas so that VZ-RI would have the market power to raise tariffed rates for business customers in less competitive areas especially for business customers with few lines in rural areas. Although this scenario is possible, it is very remote for the near future. VZ-RI has 38,000 business customers of which 18,000 have 4 lines or more.<sup>8</sup> It would be extremely difficult for VZ-RI to enter into thousands of Customer Specific Pricing Contracts in the near term future so as to allow VZ-RI to comfortably raise tariffed rates for the remaining very small business customers, especially in rural areas. Accordingly, the Commission finds that Customer Specific Pricing for business customers is not inherently improper discrimination; instead, it will likely result in lower rates for some business customers. However, the Commission will remain vigilant to ensure that tariffed business customers with few competitive choices are not experiencing rate increases in order to subsidize rate decreases through Customer Specific Pricing for business customers in very competitive areas.

Granting VZ-RI Customer Specific Pricing flexibility for business customers is another step in the evolution towards the creation of a fully developed competitive market. This pricing flexibility is in the public interest and the best interest of ratepayers.

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<sup>8</sup> VZ-RI Data Response of 1/9/04.

Accordingly, it is

( 17679) ORDERED:

1. Verizon-Rhode Island's revision to Tariff No. 15 filed December 12, 2003 is approved with the modification that all rates must be above the long-run incremental price floor.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 13, 2004  
PURSUANT TO AN OPEN MEETING ON JANUARY 12, 2004. WRITTEN ORDER  
ISSUED JANUARY 22, 2004.

PUBLIC UTILITIES COMMISSION

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Elia Germani, Chairman

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Kate F. Racine, Commissioner

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Robert B. Holbrook, Commissioner